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8 **BEFORE THE**  
9 **CALIFORNIA BOARD OF ACCOUNTANCY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **OSCAR ODELL MOON**  
14 P.O. Box 3130  
15 Victorville, CA 92393

16 Certified Public Accountant Certificate No.  
17 27115

18 Respondent.

Case No. AC-2011-22  
OAH No. 2012041160

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

19 **FINDINGS OF FACT**

20 1. On or about October 27, 2011, Complainant Patti Bowers, in her official capacity as  
21 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs,  
22 filed Accusation No. AC-2011-22 against Oscar Odell Moon (Respondent) before the California  
23 Board of Accountancy. (Accusation attached as **Exhibit A.**)

24 2. On or about December 1, 1978, the California Board of Accountancy (CBA) issued  
25 Certified Public Accountant Certificate No. 27115 to Respondent. The Certified Public  
26 Accountant Certificate will expired on June 30, 2013, unless renewed.

27 3. On or about November 8, 2011, Respondent was served by Certified and First Class  
28 Mail copies of the Accusation No. AC-2011-22, Statement to Respondent, Notice of Defense,

1 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
2 and 11507.7) at Respondent's address of record which, pursuant to California Code of  
3 Regulations, title 16, section 3, is required to be reported and maintained with the CBA.  
4 Respondent's address of record was and is: P.O. Box 3130, Victorville, CA 92393.

5 4. Service of the Accusation was effective as a matter of law under the provisions of  
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
7 124.

8 5. On or about November 19, 2011, Respondent signed and returned a Notice of  
9 Defense, requesting a hearing in this matter. A Notice of Hearing was served by first class and  
10 certified mail to Respondent's address of record and it informed him that an administrative  
11 hearing in this matter was scheduled for October 11, 2012. On or about June 5, 2012 the United  
12 States postal service delivered a postal return card to the Office of Attorney General, indicating  
13 that the Notice of Hearing sent by certified mail had been signed for by Respondent, with the  
14 postal return card bearing Respondent's hand-printed name and signature, and showing June 5,  
15 2012 as the date of delivery. The first class mailing was not returned and presumably received by  
16 the addressee. Respondent failed to appear at the scheduled hearing.

17 6. Government Code section 11506 states, in pertinent part:

18 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
19 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
20 of the accusation not expressly admitted. Failure to file a notice of defense shall  
21 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
22 may nevertheless grant a hearing.

23 7. California Government Code section 11520 states, in pertinent part:

24 (a) If the respondent either fails to file a notice of defense or to appear at the  
25 hearing, the agency may take action based upon the respondent's express admissions  
26 or upon other evidence and affidavits may be used as evidence without any notice to  
27 respondent.

28 8. Pursuant to its authority under Government Code section 11520, the CBA finds  
Respondent is in default. The CBA will take action without further hearing and, based on the  
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
taking official notice of all the investigatory reports, exhibits and statements contained therein on

1 file at the CBA's offices regarding the allegations contained in Accusation No. AC-2011-22, finds  
2 that the charges and allegations in Accusation No. AC-2011-22, are separately and severally,  
3 found to be true and correct by clear and convincing evidence.

4 9. Taking official notice of its own internal records, pursuant to Business and  
5 Professions Code section 5107, it is hereby determined that the reasonable costs for Investigation  
6 and Enforcement is \$14,244.00 as of October 9, 2012.

#### 7 **DETERMINATION OF ISSUES**

8 1. Based on the foregoing findings of fact, Respondent Oscar Odell Moon has subjected  
9 his Certified Public Accountant Certificate No. 27115 to discipline.

10 2. The agency has jurisdiction to adjudicate this case by default.

11 3. The California Board of Accountancy is authorized to revoke Respondent's Certified  
12 Public Accountant Certificate based upon the following violations alleged in the Accusation  
13 which are supported by the evidence contained in the Default Decision Evidence Packet in this  
14 case:

15 A. Respondent is subject to disciplinary action under Business and Professions  
16 Code section 5100, subsection "c" for unprofessional conduct due to his repeated negligent  
17 acts in failing to complete and file tax documents for tax years 2006 and 2007 in a timely  
18 manner for client RM, and in failing to make timely response to inquiries about the unfiled  
19 documents, as follows:

20 (1) On or about September 12, 2006, Respondent was engaged to perform tax and  
21 other services for RM and his company.

22 (2) Respondent prepared the 2006 returns on or about December 19, 2008.  
23 However, he did not provide the returns to RM until more than a month later – on  
24 approximately January 23, 2009, causing additional delays for the late-filed tax returns.

25 (3) On multiple dates in 2009, Respondent received tax notices regarding the  
26 suspension/forfeiture and levy against RM's corporation. By his own admission,  
27 Respondent made no timely response to these notices.  
28

1 (4) Respondent committed repeated acts of negligence during his engagement for  
2 client RM and his company, as follows:

3 (a) Respondent failed to provide RM his 2006 individual income tax returns  
4 once completed, causing an additional delay of approximately 1 month.

5 (b) Respondent failed to respond to multiple tax notices regarding the  
6 suspension/forfeiture and levy against RM's corporation received from his client.

7 B. Respondent is subject to disciplinary action under Business and Professions  
8 Code section 5100, subsection "c" for unprofessional conduct due to his gross negligence  
9 and/or repeated negligent acts in services provided to corporate client "PVS" in failing to  
10 timely prepare documentation for dissolution of the corporation and failing to properly  
11 complete and file tax documents for tax year 2007 as follows:

12 (1) At all times relevant herein GM was the authorized representative of PVS, a  
13 corporation.

14 (2) Pursuant to GM's request during or prior to an in-person meeting with  
15 Respondent, on or about July 16, 2007, Respondent agreed to prepare documentation  
16 required to dissolve the corporation (PVS), including final corporate tax returns.

17 (3) Despite assurances to GM that he was handling PVS tax matters, Respondent  
18 failed to timely prepare documentation required to dissolve the corporation, and failed to  
19 comply with tax preparation requirements for a final return, resulting in delinquency  
20 notifications and penalties to the client.

21 (4) Respondent committed multiple acts of gross negligence and/or repeated acts of  
22 negligence during his engagement related to PVS as follows:

23 (a) Respondent prepared the final 2007 corporation tax returns for PVS  
24 without complying with the requirements for a final return including, but not limited to,  
25 filing, timely, the appropriate documentation with the California Franchise Tax Board  
26 (FTB) and California Secretary of State (SOS) to dissolve the corporation.

1 (b) Respondent failed to respond to tax notices received from his client  
2 related to PVS. Respondent received the tax notices but did not take action to address the  
3 issue(s) underlying the notice, i.e., dissolution of the corporation.

4 (c) After the Board initiated its investigation of his conduct related to PVS in  
5 Summer 2009, Respondent agreed to prepare the documentation necessary to dissolve the  
6 corporation. However, he prepared forms incorrectly, did not file the forms with the correct  
7 agency and otherwise engaged in new and additional acts of negligence related to the PVS  
8 returns as follows:

9 (i) Respondent prepared Form FTB 3557BC (dated September 19, 2009) to revive  
10 the corporation from the suspended status as required. However, the form was sent  
11 to the Secretary of State rather than the FTB.

12 (ii) The filing of Form FTB 3557BC required submission of all required payments,  
13 returns or documents. However, PVS's Form 100 for 2009 was submitted by  
14 Respondent without required payments of (1) the \$800 minimum FTB tax, and (2) a  
15 \$250 SOS Certification (a penalty previously assessed). Nor did Respondent advise  
16 GM and/or PVS that these payments were required.

17 (iii) Respondent sent the 2009 tax return to the SOS but not to the FTB as required.

18 (iv) Respondent prepared SOS Form ELEC STK (Domestic Stock Corporation  
19 Certificate of Election to Wind Up and Dissolve) but did not complete the form  
20 election item three.

21 C. Effective October 20, 2006, in a prior disciplinary action, Respondents'  
22 Certificate was revoked pursuant to the Board's decision in *Accusation vs. Oscar Odell*  
23 *Moon*, Case No. AC-2004-41, however revocation was stayed, and Respondent placed on  
24 probation for three years with terms and conditions, including a three months suspension.  
25 The probation was completed on October 19, 2009. In settlement of this prior disciplinary  
26 action, Respondent admitted all charges of the accusation including that he failed to comply  
27 with applicable professional standards of due care and diligence in discharging his  
28 responsibilities to a client between approximately May and October 2002, in relation to a

1 State Board of Equalization audit. The Board expressly finds that this prior disciplinary  
2 action is a factor in aggravation of penalty.

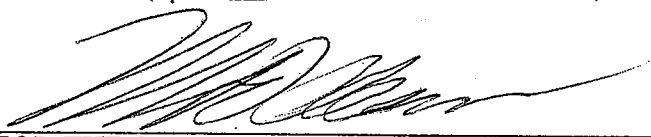
3 **ORDER**

4 IT IS ORDERED that Certified Public Accountant Certificate No. 27115, heretofore issued  
5 to Respondent OSCAR ODELL MOON, is revoked.

6 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
7 written motion requesting that the Decision be vacated and stating the grounds relied on within  
8 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
9 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

10 This Decision shall become effective on December 26, 2012.

11 It is so ORDERED November 26, 2012.

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14 FOR THE CALIFORNIA BOARD OF  
15 ACCOUNTANCY  
16 DEPARTMENT OF CONSUMER AFFAIRS

17 default decision LIC.rtf  
DOJ Matter ID:LA2011601051

18 Attachment:  
19 **Exhibit A:** Accusation  
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# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 SUSAN MELTON WILSON  
Deputy Attorney General  
4 State Bar No. 106902  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-4942  
6 Facsimile: (213) 897-2804  
E-mail: Susan.Wilson@doj.ca.gov  
7 *Attorneys for Complainant*

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9 **BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

10  
11 In the Matter of the Accusation Against:

Case No. AC-2011-22

12 **OSCAR ODELL MOON**  
P.O. Box 3130  
13 Victorville, CA 92393-3130

**ACCUSATION**

14  
15 Certified Public Accountant Certificate No.  
27115

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as  
21 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

22 2. On or about December 1, 1978, the California Board of Accountancy issued Certified  
23 Public Accountant Certificate Number 27115 to Oscar Odell Moon (Respondent). On or about  
24 October 20, 2006 Respondents' Certificate was revoked pursuant to the disciplinary matter  
25 entitled Board's decision in *Accusation vs. Oscar Odell Moon*, case no. AC-2004-41, however  
26 revocation was stayed, and Respondent placed on probation for three years with terms and  
27 conditions, including a three months suspension. The probation was completed on October 19,  
28 2009. The Certificate will expire on July 1, 2013, unless renewed.



**JURISDICTION**

3. This Accusation is brought before the California Board of Accountancy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 5109 of the Code provides that the expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice public accountancy by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of or action or disciplinary proceeding against the licensee, or to render a decision suspending or revoking the license

5. Section 5100 of the Code states:

"After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

...

"(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

...

6. Section 5107(a) of the Code states:

"The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations of this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Repeated Negligent Acts)**

3 7. Respondent is subject to disciplinary action under Business and Professions Code  
4 section 5100, subsection "c" for unprofessional conduct due to his repeated negligent acts in  
5 failing to complete and file tax documents for tax years 2006 and 2007 in a timely manner for  
6 client RM, and in failing to make timely response to inquiries about the unfilled documents, as  
7 follows:

8 A. On or about September 12, 2006, Respondent was engaged to perform tax and other  
9 services for RM and his company.

10 B. Respondent prepared the 2006 returns on or about December 19, 2008. However, he  
11 did not provide the returns to RM until more than a month later – on approximately January 23,  
12 2009, causing additional delays for the late-filed tax returns.

13 C. On multiple dates in 2009, Respondent received tax notices regarding the  
14 suspension/forfeiture and levy against RM's corporation. By his own admission, Respondent  
15 made no timely response to these notices.

16 D. Respondent committed repeated acts of negligence during his engagement for client  
17 RM and his company, as follows:

18 (1) Respondent failed to provide RM his 2006 individual income tax returns once  
19 completed, causing an additional delay of approximately 1 month.

20 (2) Respondent failed to respond to multiple tax notices regarding the  
21 suspension/forfeiture and levy against RM's corporation received from his client.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Gross Negligence and/or Repeated Negligent Acts)**

24 8. Respondent is subject to disciplinary action under Business and Professions Code  
25 section 5100, subsection "c" for unprofessional conduct due to his gross negligence and/or  
26 repeated negligent acts in services provided to corporate client Property Verification Services,  
27 Inc.(PVS) in failing to timely prepare documentation for dissolution of the corporation and failing  
28 to properly complete and file tax documents for tax year 2007 as follows:

1       A.    At all times relevant herein GM was the authorized representative of Property  
2 Verification Services, Inc. (PVS), a corporation.

3       B.    Pursuant to GM's request during or prior to an in-person meeting with Respondent,  
4 on or about July 16, 2007, Respondent agreed to prepare documentation required to dissolve the  
5 corporation (PVS), including final corporate tax returns.

6       C.    Despite assurances to GM that he was handling PVS tax matters, Respondent failed to  
7 timely prepare documentation required to dissolve the corporation, and failed to comply with tax  
8 preparation requirements for a final return, resulting in delinquency notifications and penalties to  
9 the client.

10       D.   Respondent committed multiple acts of gross negligence and/or repeated acts of  
11 negligence during his engagement related to PVS as follows:

12           (1)   Respondent prepared the final 2007 corporation tax returns for PVS without  
13 complying with the requirements for a final return including, but not limited to, filing, timely, the  
14 appropriate documentation with the California Franchise Tax Board (FTB) and California  
15 Secretary of State (SOS) to dissolve the corporation.

16           (2)   Respondent failed to respond to tax notices received from his client related to  
17 PVS. Respondent received the tax notices but did not take action to address the issue(s)  
18 underlying the notice, i.e., dissolution of the corporation.

19           (3)   After the Board initiated its investigation of his conduct related to PVS in  
20 Summer 2009, Respondent agreed to prepare the documentation necessary to dissolve the  
21 corporation. However, he prepared forms incorrectly, did not file the forms with the correct  
22 agency and otherwise engaged in new and additional acts of negligence related to the PVS returns  
23 as follows:

24           (a)   Respondent prepared Form FTB 3557BC (dated September 19, 2009) to revive  
25 the corporation from the suspended status as required. However, the form was sent to the  
26 Secretary of State rather than the FTB.

27           (b)   The filing of Form FTB 3557BC required submission of all required payments,  
28 returns or documents. However, PVS's Form 100 for 2009 was submitted by

1 Respondent without required payments of (1) the \$800 minimum FTB tax, and (2) a  
2 \$250 SOS Certification (a penalty previously assessed). Nor did Respondent advise GM  
3 and/or PVS that these payments were required.

4 (c) Respondent sent the 2009 tax return to the SOS but not to the FTB as required.

5 (d) Respondent prepared SOS Form ELEC STK (Domestic Stock Corporation  
6 Certificate of Election to Wind Up and Dissolve) but did not complete the form election  
7 item three.

### 8 DISCIPLINARY CONSIDERATIONS

9 9. To determine the degree of discipline, if any, to be imposed on Respondent,  
10 complainant alleges as follows:

#### 11 Previous Discipline

12 A. Effective October 20, 2006, in a prior disciplinary action, Respondents'  
13 Certificate was revoked pursuant to the Board's decision in *Accusation vs. Oscar Odell Moon*,  
14 Case No. AC-2004-41, however revocation was stayed, and Respondent placed on probation for  
15 three years with terms and conditions, including a three months suspension. The probation was  
16 completed on October 19, 2009.

17 In settlement of the prior disciplinary action, Respondent admitted all charges of the  
18 accusation including that he failed to comply with applicable professional standards of due care  
19 and diligence in discharging his responsibilities to a client between approximately May and  
20 October 2002, in relation to a State Board of Equalization audit.

### 21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
23 and that following the hearing, the California Board of Accountancy issue a decision:

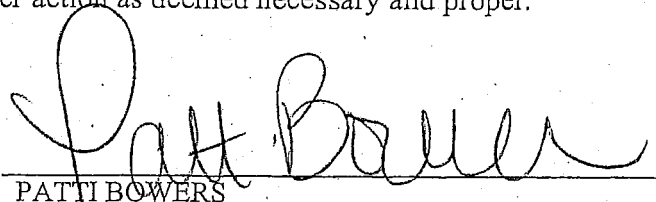
24 1 Revoking or suspending or otherwise imposing discipline upon Certified Public  
25 Accountant Certificate Number 27115, issued to Oscar Odell Moon

26 2. Ordering Oscar Odell Moon to pay the California Board of Accountancy the  
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
28 Professions Code section 5107;

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3. Taking such other and further action as deemed necessary and proper.

DATED: October 27, 2011



PATTI BOWERS  
Executive Officer  
California Board of Accountancy  
Department of Consumer Affairs  
State of California  
*Complainant*

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